

**IN A NAFTA ARBITRATION UNDER THE UNCITRAL ARBITRATION RULES**

**- between -**

**S.D. MYERS, Inc.**

**('MYERS')**

**(Claimant)**

**- and -**

**GOVERNMENT OF CANADA**

**('CANADA')**

**(Respondent)**

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**PROCEDURAL ORDER No. 19**

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**Introduction**

1. Issues having arisen between the Disputing Parties concerning document production and interrogatories in the second stage of the arbitration, the Tribunal held a further case management meeting in Toronto, Canada, on 21 June 2001.
2. After reviewing the issues in question in detail many of them were resolved by consensus. With regard to the remaining issues, the Tribunal proposed (and the Disputing Parties accepted) that Mr Rosen (the principal expert retained by

MYERS) and Mr Rostant (the principal expert retained by CANADA) would make a joint visit to MYERS' facility in Tallmadge, Ohio, (the "Tallmadge visit") to interview relevant personnel and to review the scope of the requested documents and/or information that remains available and capable of being produced by MYERS in a short period and without undue burden.

3. The Tallmadge visit should take place as soon as practicable, and in any event not later than Friday 29 June 2001.
4. The Disputing Parties also agreed that no further Procedural Order concerning document production and interrogatories would be required pending the Tallmadge visit. After the Tallmadge visit the Disputing Parties may submit any remaining document production and/or interrogatories issues to the Tribunal for determination.
5. As a result of these additional procedural steps to be taken during the second stage of the arbitration the following consequential amendments are made to the schedule set out in Procedural Order No. 17.

#### **Further evidence gathering**

6. The document production and interrogatories exercise shall be completed by 13 July 2001, subject to any required intervention by the Tribunal.

#### **Further written submissions**

7. By 20 July 2001 CANADA may, if it wishes, deliver a Supplemental Counter-Memorial.
8. By 10 August 2001 MYERS may, if it wishes, deliver a Reply Memorial.
9. By 24 August 2001 CANADA may, if it wishes, submit a short Reply Memorial.
10. Memorials shall be accompanied by the documentary and other evidence, including written expert testimony, relied upon by the party submitting the Memorial in question.
11. By 31 August 2001 the Disputing Parties shall exchange and deliver to the Tribunal short Pre-Hearing Memoranda summarising the main points of their respective cases in "bullet point" form.

#### **Other pre-hearing activity**

12. During the week beginning 13 August 2001 the experts retained by the Disputing Parties shall meet to review the extent to which they agree and disagree on the matters that are contained in their reports. By 31 August 2001 the experts shall submit a short joint report to the Tribunal identifying (a) the matters in issue on

which they are agreed and (b) the matters in issue on which they are not agreed. In this connection, the experts and the Disputing Parties are reminded that, although the experts are retained (and paid) by the parties, the Tribunal regards them as owing a duty to provide independent professional advice to the Tribunal.

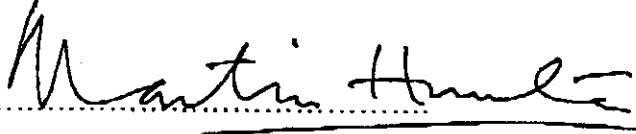
13. By 24 August 2001 the Disputing Parties shall discuss with each other and notify the Tribunal of the names of the witnesses they wish to examine at the second stage hearing. As soon as practicable thereafter the Tribunal will convene a telephone conference to give further directions concerning a detailed timetable for the second stage hearing.

#### **The Second Stage Hearing**

14. The second stage hearing shall start on Wednesday 5 September 2001 and continue, if necessary, through Saturday 8 September 2001.
15. The hearing shall be mainly for the examination of witnesses, but short opening statements may be made by counsel for the parties, and adequate time will be set aside for argument on issues of law and closing statements.

#### **Other Matters**

16. Either party may apply at any time for the terms of this Order to be supplemented, varied or reviewed.

Signed:   
(on behalf of the Tribunal)

**Dated: 25 June 2001**